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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 ADVANCED HAIR RESTORATION, LLC,

11 Plaintiff,

12 v.

13 HAIR RESTORATION CENTERS, LLC,

14 Defendant.
15

Case No. C17-709RSM

ORDER DENYING PLAINTIFF'S
MOTION TO COMPEL

16 This matter comes before the Court on Plaintiff Advanced Hair Restoration, LLC's
17 Motion to Compel. Dkt. #16.

18 Local Rule 37(a)(1) states:

19 Meet and Confer Requirement. Any motion for an order
20 compelling disclosure or discovery must include a certification, in
21 the motion or in a declaration or affidavit, that **the movant has in**
22 **good faith conferred or attempted to confer with the person or**
23 **party failing to make disclosure or discovery in an effort to**
24 **resolve the dispute without court action.** The certification must
25 list the date, manner, and participants to the conference. **If the**
26 **movant fails to include such a certification, the court may deny**
27 **the motion without addressing the merits of the dispute.** A
28 good faith effort to confer with a party or person not making a
disclosure or discovery requires a face-to-face meeting or a
telephone conference. . . .

LCR 37(a)(1) (emphasis added).

1 Plaintiff's counsel certifies that he conferred telephonically with Defendant's counsel
2 on December 4, 2017. Dkt. #16 at 5. However, this was not a typical meet-and-confer prior to
3 filing a motion to compel, as attached exhibits show that this December 4 conference ended
4 with an agreement to continue to produce records, and the Court notes that the instant Motion
5 was filed ten days later on December 14, 2017. *See* Dkt. #17-10.

7 Further examination of the record indicates that Defendant's counsel contacted
8 Plaintiff's counsel on December 13, 2017, stating that there were "unanticipated roadblocks in
9 collecting information and documents," but that Defendant was "still committed to providing
10 you with the financial and other information..." Dkt. #17-11 at 3. After Plaintiff's counsel
11 refused to further accommodate Defendant's delays in producing these records and threatened
12 to file a motion to compel, Defendant's counsel stated on December 14, 2017, "[a]ny motion to
13 compel would be premature. We are requesting a further meet and confer regarding the
14 discovery requests." *Id.* at 2. Rather than conduct another meet-and-confer, Plaintiff simply
15 filed this Motion. *See* Dkt. #16 at 5 ("As these efforts, and HRC's ongoing failure to provide
16 any information or otherwise respond to Plaintiff's request makes clear, further negotiation
17 with HRC regarding the deficiencies in its discovery responses would be futile.").

20 In Response to this Motion, Defendant argues that Plaintiff failed to conduct a proper
21 meet and confer. Dkt. #24 at 3-4 (citing *Beasley v. State Farm Mut. Auto. Ins. Co.*, 2014 WL
22 1268709, at *1 (W.D. Wash. Mar. 25, 2014) ("A good faith effort to resolve discovery disputes
23 requires an exchange of information until no additional progress is possible.")). Defendant
24 argues:
25

26 The record here shows that Defense counsel was in the process of
27 making a production and still trying to resolve any disputes prior to
28 Plaintiff filing this motion to compel. At the time this motion was
filed, there was reason to believe that a good faith effort was
underway that would have resulted in the production of documents
and information Plaintiff sought without the need for Court

1 intervention. This is precisely the type of situation Rule 37 seeks to
2 avoid. In short, Plaintiff failed to complete the meet and confer
3 process and the parties were not at an impasse, requiring this
4 motion to compel to be denied.

5 *Id.* at 4. Defendant points out that it has subsequently made a production of the requested
6 records.

7 On Reply, Plaintiff again reiterates that “any further negotiation regarding the multiple
8 deficiencies in Defendant’s responses would have been futile.” Dkt. #26 at 2. Plaintiff argues
9 that “Plaintiff’s counsel has continued to confer with Defendant’s counsel regarding its
10 deficient production and responses since this filing,” and argues that this satisfies its Rule 37
11 requirements. *Id.* at 5.

12 The Court agrees with Defendant that Plaintiff has not satisfied Local Rule 37(a)(1)’s
13 meet and confer requirement. There is no evidence that the parties reached an impasse in their
14 discussions; to the contrary it appears that Defendant was, perhaps belatedly, attempting in
15 good faith to resolve the discovery dispute outside of Court by producing the requested records.
16 When the parties disagreed about the sufficiency of this response, Defendant actually requested
17 and was refused a telephonic conference. Instead, Plaintiff filed the instant Motion that day.

18 Given all of the above, the Court concludes that this Motion is properly denied as
19 procedurally improper. Accordingly, the Court hereby finds and ORDERS that Plaintiff
20 Advanced Hair Restoration, LLC’s Motion to Compel, Dkt. #16, is DENIED.

21 DATED this 12 day of February, 2018.

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25 RICARDO S. MARTINEZ
26 CHIEF UNITED STATES DISTRICT JUDGE
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